**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Tara Brown,

       Plaintiff,   Case No. 1:18cv785

       v.   Judge Michael R. Barrett

Abubakar Atiq Durrani, *et al*.,

       Defendants.

ORDER

This matter is before the Court upon the Motion to Strike the Affidavit of Eric Deters Regarding Dr. Durrani's Travels Out of the State of Ohio filed by Defendants, Abubakar Atiq Durrani, M.D. ("Durrani") and Center for Advanced Spine Technologies, Inc. ("CAST"). (Doc. 36). Plaintiff filed a Response in Opposition. (Doc. 41). Defendants filed a Reply. (Doc. 43).

The Affidavit of Eric Deters (Doc. 34) appears to be related to the application of Ohio's statute of repose, Ohio Revised Code § 2305.113(C). The same affidavit has been filed in other cases brought against these same Defendants. The issue of whether the statute of repose was tolled has been resolved in this case as well as in others. *See Cornett v. Durrani*, No. 1:18-CV-787, 2021 WL 5177812, at *1 (S.D. Ohio Nov. 8, 2021) (collecting cases). In any event, in addressing this same affidavit, this Court has ruled that:

> the Notice of Affidavit is substantively irrelevant and inadmissible in this case. The Notice is also procedurally improper. Although Defendant's motion invites this Court to strike the document, neither Rule 12(f) nor Rule 56(c) authorize striking the Notice of Affidavit. Therefore, the Court construes Defendant's motion as seeking an order stating that the Notice of

Affidavit will be disregarded. This, the Court can do. In granting the motion as so construed, the irony is not lost on the Court that the same remedy would have been obtained had the Defendant filed no motion at all.

Powers v. Durrani, Case No. 1:18-CV-788, 2021 WL 5177813, at *4 (S.D. Ohio Nov. 8, 2021) (citing *Landrum v. Durrani*, Case No. 1:18-CV-807, 2021 WL 3666286, at *5 (S.D. Ohio July 2, 2021).

Accordingly, it is hereby **ORDERED** that Defendants' Motion to Strike the Affidavit (Doc. 36) is **GRANTED**.

IT IS SO ORDERED.

         /s/ Michael R. Barrett
         JUDGE MICHAEL R. BARRETT